

NO. 5:14-CT-3170-F

Defendants.

ORDER

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judgment is analyzed under Rule 59(e); if the motion is filed later, Rule 60(b) controls. See Fed. R. Civ. P. 59(e); MLC Auto., LLC v. Town of S. Pines, 532 F.3d 269, 280 (4th Cir. 2008); In re Burnley, 988 F.2d 1, 2-3 (4th Cir. 1992); Bell v. United States, No. CIV.A RDB-11-1086, 2015 WL 433604, at *1 (D. Md. Feb. 2, 2015). Because Plaintiff filed the instant motion within 28 days of the judgment, it shall be analyzed under Rule 59.

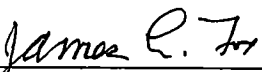
Rule 59(e) of the Federal Rules of Civil Procedure permits a court to alter or amend a judgment. See Fed. R. Civ. P. 59(e). The decision to alter or amend a judgment pursuant to Rule 59(e) is within the sound discretion of the district court. See, e.g., Dennis v. Columbia Colleton Med. Ctr., Inc., 290 F.3d 639, 653 (4th Cir. 2002); Hughes v. Bedsole, 48 F.3d 1376, 1382 (4th Cir. 1995). The Fourth Circuit has recognized three reasons for granting a motion to alter or amend a judgment under Rule 59(e): “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available [previously]; or (3) to correct a clear error of law or prevent manifest injustice.” Zinkand v. Brown, 478 F.3d 634, 637 (4th Cir. 2007) (quotations omitted); see also Bogart v. Chapell, 396 F.3d 548, 555 (4th Cir. 2005); Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998). However, a Rule 59(e) motion “may not be used to relitigate old matters, or to raise arguments or present evidence that could have been raised prior to entry of judgment.” Pacific Insurance Company, 148 F.3d at 403. Rather, amending or altering a judgment is an extraordinary remedy that should be applied sparingly. EEOC v. Lockheed Martin Corp., 116 F.3d 110, 112 (4th Cir. 1997).

Because he does not identify a change in the controlling law or previously unavailable evidence, Plaintiff presumably seeks to correct a clear error of law or prevent manifest injustice. Where a party seeks reconsideration on the basis of manifest error, the earlier decision cannot be

“just maybe or probably wrong; it must . . . strike us as wrong with the force of a five-week old, unrefrigerated dead fish.” TFWS, Inc. v. Franchot, 572 F.3d 186, 194 (4th Cir. 2009) (quoting Bellsouth Telesensor v. Info. Sys. & Networks Corp., Nos. 92–2355, 92–2437, 1995 WL 520978 at *5 n.6 (4th Cir. Sept. 5, 1995)).

Here, Plaintiff contends that he was not required to exhaust his administrative remedies because his claims “are unrelated to prison life.” Mot. [DE-8]. This allegation does not demonstrate that the dismissal of Plaintiff’s claims was manifestly unjust. Even if Plaintiff was not required to exhaust, his claims are still frivolous on their face. Specifically, Plaintiff contends that Defendants violated his right to medical privacy. This allegation fails to state a viable claim. See e.g., Cooke v. U.S. Bureau of Prisons, 926 F. Supp. 2d 720, 736 (E.D.N.C. 2013) (“As for plaintiffs’ Fifth Amendment claim that they have been denied a constitutional right to privacy in medical treatment, the Supreme Court has never held that an inmate has a constitutional right to privacy in medical treatment.”); Rollins v. Miller, No. 1:12–CV–298–RJC, 2012 WL 4974966, at *2 (W.D.N.C. Oct. 17, 2012) (“[N]either the U.S. Supreme Court nor the Fourth Circuit has ever recognized a constitutional right in the privacy of prisoners’ medical records.”); Sherman v. Jones, 258 F. Supp. 2d 440 (E.D.Va. 2003) (“[T]here is no general fundamental constitutional right to privacy in personal medical information.”); Adams v. Drew, 906 F. Supp. 1050, 1058 (E.D. Va. 1995) (“Absent clear authority from the Fourth Circuit or the Supreme Court, this court does not find as a matter of law, under the facts of this case, that a constitutional right to privacy of medical information exists.”). Accordingly, Plaintiff’s argument fails to satisfy the standard established in Rule 59(e), and his motion for reconsideration [DE-8] is DENIED.

SO ORDERED. This the 18 day of June, 2015.



JAMES C. FOX
Senior United States District Judge